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**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

ROSA SMAJLAJ, on behalf of herself and
all others similarly situated,

Plaintiff,

vs.

CAMPBELL SOUP COMPANY,

Defendant.

Civil Case No.

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

Plaintiff Rosa Smajlaj, residing at 11 Lee Road Somers, New York 10589 (hereinafter, “Plaintiff”), by her attorneys, Cohn Lifland Pearlman Herrmann & Knopf LLP and Wolf Popper LLP, alleges the following upon information and belief, except for those allegations that pertain to Plaintiff, which are based on the Plaintiff’s personal knowledge:

NATURE OF THE ACTION

1. Campbell Soup Company (“Campbell” or “Defendant”) markets and sells at least three varieties of condensed tomato soup – a regular version (“Regular Tomato Soup”), a lower sodium version (“Less Sodium Tomato Soup”), and a “Healthy Request Tomato Soup” (“Healthy Request Tomato Soup”). The label on the Less Sodium Tomato Soup boasts “25% less Sodium” than the regular condensed product - but actually contains the exact same 480 mg of sodium as the Regular Tomato Soup. The label on the Healthy Request Tomato Soup boasts that it is “low in fat and cholesterol” – but actually contains more fat than the Regular Tomato Soup. Even more egregious, Campbell sells its Less Sodium Tomato Soup and its Healthy Request Tomato Soups for a premium - up to 50% more than its Regular Tomato Soup. Campbell’s misrepresentations as to the actual composition of its products wrongfully causes consumers to purchase the higher priced Less Sodium Tomato Soup and Healthy Request Tomato Soup and leads them to believe that they are purchasing a healthier product. As alleged herein, such conduct constitutes an unconscionable commercial practice, deception, and fraud in violation of the New Jersey Consumer Fraud Act. It also constitutes a breach of Campbell’s express warranties. Moreover, Campbell has been unjustly enriched at the expense of Plaintiff and other purchasers of its Less Sodium Tomato Soup and Healthy Request Tomato Soup. Hence, Plaintiff brings this action individually, and on behalf of all other purchasers Campbell’s Less Sodium Tomato Soup and Campbell’s Healthy Request Tomato Soup since March 12, 2004 (the “Class Period”). She seeks damages as well as an order enjoining Campbell’s alleged improper conduct.

PARTIES

2. Plaintiff Rosa Smajlaj is a citizen of the State of New York. Mrs. Smajlaj purchased Campbell's Less Sodium Tomato Soup and Campbell's Healthy Request Tomato Soup during the Class Period.

3. Defendant Campbell Soup Company is organized and existing under the laws of the State of New Jersey, with its corporate headquarters and principal place of business located at 1 Campbell Place, Camden, New Jersey 08103. Campbell was and is doing business within this Judicial District. According to Campbell's Form 10-K for its Fiscal Year Ended August 2, 2009, Campbell generated \$7.58 billion in sales in 2009.

JURISDICTION AND VENUE

4. This Court has jurisdiction over this class action pursuant to 28 U.S.C. §1332(d). Plaintiff is a citizen of a different state than Defendant and the amount in controversy, exclusive of interest and costs, exceeds \$5 million.

5. This Court has personal jurisdiction over Defendant.

6. Venue is proper pursuant to 28 U.S.C. § 1391(a) because a substantial part of the events giving rise to the claims occurred in this District and the Defendant's principal place of business is within the District.

CLASS ALLEGATIONS

7. Plaintiff brings claims pursuant to Federal Rule of Civil Procedure 23 individually and on behalf the following class (the "Class"):

All purchasers of Campbell's Less Sodium Tomato Soup and Campbell's Healthy Request Tomato Soup from March 12, 2004 to the present; excluding officers, directors or employees of Defendant and its affiliates, and their immediate families.

8. The members of the Class are so numerous that joinder is impracticable. Thousands of persons have purchased Campbell's Less Sodium Tomato Soup and/or Campbell's Healthy Request Tomato Soup during the Class Period.

9. Plaintiff's claims are typical of the claims of the entire Class as she purchased Campbell's Less Sodium Tomato Soup and/or Campbell's Healthy Request Tomato Soup during the Class Period and sustained damages arising out of Defendant's conduct.

10. Plaintiff will fairly and adequately represent and protect the interests of the other Class members for purposes of Federal Rule of Civil Procedure 23(a)(4). Plaintiff has no interests antagonistic to those of other Class members. Plaintiff is committed to the vigorous prosecution of this action and has retained counsel experienced in litigation of this nature to represent her.

11. Common questions of law and fact exist as to all members of the Class and predominate over any questions affecting only individual members of the Class, including, but not limited to:

- a) whether Campbell's Less Sodium Tomato Soup contains the same amount of sodium as Campbell's Regular Tomato Soup;
- b) whether Campbell's Healthy Request Tomato Soup contains more fat than Campbell's Regular Tomato Soup;
- c) whether Defendant misrepresented material facts in connection with the marketing and sale of its Less Sodium Tomato Soup and/or its Healthy Request Tomato Soup;
- d) whether Defendant misrepresented, misled or deceived consumers into believing, or wrongfully suggested that its Less Sodium Tomato Soup has characteristics,

benefits, or qualities which it does not have;

- e) whether Defendant misrepresented, misled or deceived consumers into believing, or wrongfully suggested that its Healthy Request Tomato Soup has characteristics, benefits, or qualities which it does not have;
- f) whether Defendant's acts, practices and misrepresentations in connection with the promotion and sale of its Less Sodium Tomato Soup violated the New Jersey Consumer Fraud Act;
- g) whether Defendant's acts, practices and misrepresentations in connection with the promotion and sale of its Healthy Request Tomato Soup violated the New Jersey Consumer Fraud Act;
- h) whether Defendant's acts, practices and misrepresentations in connection with the promotion and sale of its Less Sodium Tomato Soup and/or its Healthy Request Tomato Soup caused it to be unjustly enriched at the expense of Plaintiff and other Class members;
- i) whether Defendant's conduct, as set forth herein, damaged members of the Class and if so, the, the measure of those damages;
- j) whether Defendant's acts, practices and misrepresentations in connection with the promotion and sale of its Less Sodium Tomato Soup should be enjoined;
- k) whether Defendant's acts, practices and misrepresentations in connection with the promotion and sale of its Healthy Request Tomato Soup should be enjoined; and
- l) the nature and extent of any other relief that should be provided.

12. A class action is superior to other available methods for the fair and efficient adjudication of this controversy. Since the damages suffered by individual Class members may be relatively small, the expense and burden of individual litigation make it virtually impossible for the Class members to seek redress for the wrongful conduct alleged. Plaintiff knows of no difficulty which will be encountered in the management of this litigation which would preclude its maintenance as a class action

13. Class certification is also appropriate under Federal Rule of Civil Procedure 23(b)(2) because the Defendant has acted on grounds that apply generally to the Class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the Class as a whole. Defendant's advertising, marketing, labeling and promotional practices were supplied uniformly to all members of the Class.

14. Class members have suffered and will suffer irreparable harm and damages as a result of Defendant's wrongful conduct.

FACTUAL ALLEGATIONS

15. Campbell's condensed tomato soup is one of Defendant's most popular soups.

16. Campbell purported to introduce a variety of healthier versions of its condensed soup products.

17. Campbell markets and sells what it purports to be two healthier versions of its Regular Tomato Soup – the Less Sodium Tomato Soup and the Healthy Request Tomato Soup version.

18. Campbell boldly represents on the label of its Less Sodium Tomato Soup that said soup contains "25% LESS SODIUM" than its regular condensed soup.



19. Campbell's Less Sodium Tomato Soup contains 480mg of sodium per serving.
20. Campbell's Regular Tomato Soup contains 480mg of sodium per serving.
21. Thus, Campbell's Less Sodium Tomato Soup and its Regular Tomato Soup contain the same amount of sodium per serving.
22. The "25% LESS SODIUM" representation on the Less Sodium Tomato Soup misleads consumers into believing that the Less Sodium Tomato Soup has less sodium than the Regular Tomato Soup.
23. Defendant's misrepresentation on its Less Sodium Tomato Soup cans cause and entice consumers to buy Less Sodium Tomato Soup.
24. Purchasers of the Less Sodium Tomato Soup are not getting a soup that it is lower in sodium than the Regular Tomato Soup.
25. Campbell boasts on the label of its Healthy Request Tomato Soup that said soup is "low in fat and cholesterol."



26. Campbell's Healthy Request Tomato Soup contains 1.5 grams of fat per serving, .5 grams of saturated fat per serving, and .5 grams of polyunsaturated fat per serving.

27. Campbell's Regular Tomato Soup has 0 grams of fat per serving, 0 grams of saturated fat per serving, and .5 grams of polyunsaturated fat per serving.

28. The "low fat" claim on the Healthy Request Tomato Soup misleads consumers into believing that the Healthy Request Tomato Soup has less fat than the Regular Tomato Soup.

29. Defendant's misrepresentation on its Healthy Request Tomato Soup cans cause and entice consumers to buy Healthy Request Tomato Soup.

30. Purchasers of the Healthy Request Tomato Soup are not getting a soup that it is healthier nor lower in fat, than the Regular Tomato Soup.

31. Campbell's Less Sodium Tomato Soup and Healthy Request Tomato Soups are regularly sold to consumers for a substantially higher price - up to at least 50% higher - than

Campbell's Regular Tomato Soup. (*See, e.g., Ben Popken, Zero Nutritional Difference Between Campbell's "Healthy" Tomato Soups And Regular, Just Higher Price, The Consumerist, March 5, 2010* (<http://consumerist.com/2010/03/tomato-soup.html>).

32. Persons seeking low sodium and/ low fat diets have been, and will be, deceived into believing that they are buying products which have beneficial characteristics, when, in fact, the products are no different than the Regular Tomato Soup sitting on the shelf.

33. As a result of Defendant's conduct, Plaintiff and the Class paid for a product that was different from what they reasonably expected.

34. Plaintiff purchased Campbell's Less Sodium Tomato Soup because of the "25% Less Sodium" representation.

35. Plaintiff purchased Campbell's Healthy Request Tomato Soup because of the "low in fat" representation.

36. Plaintiff was damaged by her purchase of Campbell's Less Sodium Tomato Soup and by her purchase of Campbell's Healthy Request Tomato Soup.

FIRST CAUSE OF ACTION

Violation of New Jersey Consumer Fraud Act (N.J.S.A. 56:8-1 *et seq.*)

37. Plaintiff realleges and incorporates by reference each allegation contained in Paragraphs 1 through 36 and further allege as follows.

38. The New Jersey Consumer Fraud Act prohibits "[t]he act, use or employment by any person of any unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing, concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise" including any sale or distribution

of any services. N.J.S.A. 56:8-2; N.J.S.A. 56:8-1(c), (e).

39. Defendant's sale of its Less Sodium Tomato Soup and its Healthy Request Tomato Soup falls within the purview of the New Jersey Consumer Fraud Act.

40. At all relevant times, Campbell had its headquarters in New Jersey and/or regularly conducted business in New Jersey.

41. Defendant, as a corporation, company or seller, is a "person" within the meaning of the New Jersey Consumer Fraud Act, and as such is prohibited from engaging in deceptive acts and practices.

42. As detailed herein, Defendant's conduct with respect to its promotion, marketing and sale of its Less Sodium Tomato Soup and its Healthy Request Tomato Soup constitute unconscionable commercial practices, deceptions, frauds, false promises or misrepresentations of material facts, including:

- a. representing and suggesting to consumers that purchase and consumption of its Less Sodium Tomato Soup will result in lower sodium intake over purchase and consumption of its Regular Tomato Soup when it does not; and
- b. representing and suggesting to consumers that purchase and consumption of its Healthy Request Tomato Soup will provide lower fat intake over the purchase and consumption of its Regular Tomato Soup when it does not.

43. Defendant deceived and continues to deceive, consumers into purchasing its higher-priced Less Sodium Tomato Soup and Healthy Request Tomato Soup in the mistaken belief that, among other things, the persons consuming these products have less sodium and less fat, respectively, as compared to its Regular Tomato Soup. Defendant makes this deception by conspicuously stating on the label of each can of tomato soup in question that the soup contains

either “25% LESS SODIUM” or is “Low in fat.”

44. Plaintiff and the Class paid money for Campbell’s Less Sodium Tomato Soup and Healthy Request Tomato Soup. Plaintiff and the Class did not obtain the value of the advertised products a result of Defendant’s misrepresentations regarding the sodium and fat content of said products. Accordingly, Plaintiff and the Class have suffered an ascertainable loss as a result of Defendant’s conduct.

SECOND CAUSE OF ACTION

Breach of Express Warranty

45. Plaintiff realleges and incorporates by reference each allegation contained in Paragraphs 1 through 44 and further allege as follows.

46. Plaintiff, and each member of the Class, entered into a contract with Campbell when each purchased defendant’s Less Sodium Tomato Soup and/or defendant’s Healthy Request Tomato Soup. The terms of the contract included the representations and affirmations made by Defendant on the labels of its subject soup cans..

47. Defendant warranted that its Less Sodium Tomato Soup contained less sodium than its Regular Tomato Soup. Defendant breached this warranty because its Less Sodium Tomato Soup did not (and does not) contain less sodium than Defendant’s Regular Tomato Soup as Defendant represented, and Plaintiff and the members of the Class were harmed thereby.

48. Defendant warranted that its Healthy Request Tomato Soup contained less fat than its Regular Tomato Soup. Defendant breached this warranty because its Healthy Request Tomato Soup did not (and does not) contain less fat than Defendant’s Regular Tomato Soup as Defendant represented, and Plaintiff and the members of the Class were harmed thereby.

49. As a direct and proximate result of Defendant's breach of express warranty, Plaintiff and the members of the Class suffered economic loss.

THIRD CAUSE OF ACTION

Unjust Enrichment

50. Plaintiff realleges and incorporates by reference each allegation contained in Paragraphs 1 through 49 and further allege as follows.

51. Defendant has profited and benefitted from Plaintiff's and the Class members' purchase of its Less Sodium Tomato Soup and its Healthy Request Tomato Soup.

52. Defendant accepted payment, directly or indirectly, from Plaintiff and the members of the Class for the purchase of its Less Sodium Tomato Soup and its Healthy Request Tomato Soup.

53. Defendant voluntarily retained these profits and benefits derived from Plaintiff and the Class, with knowledge or with reckless disregard, that Plaintiff and the Class were not receiving a product of the quality, nature, or fitness that had been represented by Defendant and which Plaintiff and members of the Class as reasonable consumers expected.

54. It would be inequitable for Campbell to retain the profits and benefits it received from Plaintiff and the Class from the sale of its Less Sodium Tomato Soup and its Healthy Request Tomato Soup.

FOURTH CAUSE OF ACTION

Injunctive Relief

55. Plaintiff realleges and incorporates by reference each allegation contained in Paragraphs 1 through 54 and further allege as follows.

56. Defendant continues to market and sell its Less Sodium Tomato Soup which contains the same amount of sodium as its Regular Tomato Soup through use of a materially misleading label.

57. Defendant continues to market and sell its Healthy Request Tomato Soup as low in fat, even though it contains more fat than its Regular Tomato Soup through use of a materially misleading label.

58. Class members are continually being injured by Defendant's unlawful conduct described herein.

59. Unless the Defendant's conduct is enjoined, persons requiring low sodium and/low fat diets will be deceived into believing that they are buying products which contain less sodium and/or fat, when, in fact, the products are no different than the Regular Tomato Soup sitting on the shelf.

60. There is no adequate remedy at law.

61. Such harm will continue unless and until injunctive relief is granted.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of herself and all others similarly situated, prays for judgment against Defendant as follows:

(a) determining that this action is properly brought as a class action and certifying Plaintiff as representative of the Class and her counsel as Class counsel:

(b) awarding Plaintiff and the proposed Class members their damages, trebled;

(c) awarding restitution and disgorgement of Campbell's revenues to Plaintiff and the proposed Class members;

(d) awarding preliminary and permanent injunctive relief restraining Defendant

from continuing the unlawful practices set forth herein;

(e) awarding attorneys' fees and costs and expert fees and reimbursement of costs

and expenses expended in litigating this action; and

(f) granting such other and further relief as the Court may deem just and proper.

JURY DEMAND

Plaintiff demands a trial by jury for all claims so triable.

DATED: March 12, 2010

COHN LIFLAND PEARLMAN
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By: s/ Jeffrey W. Herrmann

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Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

<hr/>		No.
ROSA SMAJLAJ, on behalf of herself and all others similarly situated,		<u>CLASS ACTION</u>
	Plaintiff,	
vs.		CERTIFICATION PURSUANT TO L. CIV. R. 11.2
CAMPBELL SOUP COMPANY,		
	Defendant.	
<hr/>		

Jeffrey W. Herrmann, of full age, certifies that pursuant to L. Civ. R. 201.1
the within matter is not arbitrable, being that the Complaint seeks damages that are
in an excess of \$150,000.

Executed on this 12th day of March, 2010.

COHN LIFLAND PEARLMAN
HERRMANN & KNOPF LLP
JEFFREY W. HERRMANN

s/Jeffrey W. Herrmann

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Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

ROSA SMAJLAJ, on behalf of herself and
all others similarly situated,

No.

CLASS ACTION

Plaintiff,

vs.

CERTIFICATION PURSUANT TO
L. CIV. R. 11.2

CAMPBELL SOUP COMPANY,

Defendant.

I certify that to the best of my knowledge, the matter in controversy is not currently the subject of any other action pending in this court.

I certify under penalty of perjury that the foregoing is true and correct.

Executed on this 12th day of March, 2010.

COHN LIFLAND PEARLMAN
HERRMANN & KNOPF LLP
JEFFREY W. HERRMANN

s/Jeffrey W. Herrmann

JEFFREY W. HERRMANN

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JS 44 (Rev. 12/07, NJ 5/08)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS Rosa Smajlaj (b) County of Residence of First Listed Plaintiff <u>Not a NJ Resident</u> (c) Attorney's (Firm Name, Address, Telephone Number and Email Address) Jeffrey W. Herrmann, Esq. Cohn Lifland Pearlman Herrmann & Knopf LLP Park 80 Plaza West-One Saddle Brook, NJ 07663 iwh@nilawfirm.com	DEFENDANTS Campbell Soup Company County of Residence of First Listed Defendant <u>Camden</u> NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED. Attorneys (If Known) Unknown.																								
II. BASIS OF JURISDICTION (Place an "X" in One Box Only) <input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 2 U.S. Government Defendant <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant) <table style="width: 100%;"> <tr> <th></th> <th>PTF</th> <th>DEF</th> <th></th> <th>PTF</th> <th>DEF</th> </tr> <tr> <td>Citizen of This State</td> <td><input type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td><input type="checkbox"/> 4</td> <td><input checked="" type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input checked="" type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input checked="" type="checkbox"/> 4	Citizen of Another State	<input checked="" type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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IV. NATURE OF SUIT (Place an "X" in One Box Only)				
CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input checked="" type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN (Place an "X" in One Box Only)							Appeal to District Judge from Magistrate Judgment
<input type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify)	<input type="checkbox"/> 6 Multidistrict Litigation	<input type="checkbox"/> 7	

VI. CAUSE OF ACTION	Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): <u>28 U.S.C. 1332(d)</u>
	Brief description of cause: Consumer class action based upon NJ Consumer Fraud Act and common law claims.

VII. REQUESTED IN COMPLAINT:	<input checked="" type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	DEMAND \$ <u>Unliquidated</u>	CHECK YES only if demanded in complaint: JURY DEMAND: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
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VIII. RELATED CASE(S)	(See instructions):	JUDGE	DOCKET NUMBER
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Explanation:

DATE

03/12/2010

SIGNATURE OF ATTORNEY OF RECORD

s/ Jeffrey W. Herrmann, Esq.

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553
Brief Description: Unauthorized reception of cable service

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases. Provide a brief explanation of why the cases are related.

Date and Attorney Signature. Date and sign the civil cover sheet.